

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

**DEREK J. MYERS, et al.,**

:  
: Case No. 2:23-cv-4102

**PLAINTIFF,**

:

**v.**

:  
: JUDGE WATSON

**PIKE COUNTY, et al.,**

:  
: MAGISTRATE JUDGE PRESTON  
: DEAVERS

**DEFENDANTS.**

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**DEFENDANTS' MOTION TO VACATE MEDIATION**

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Now come the Defendants, Joshua Carver, Jim Burchett, and Pike County, respectfully requesting this Court vacate the mediation scheduled for January 2025. A Memorandum in Support is attached hereto and incorporated by reference.

Respectfully Submitted,

/s/ Cassaundra L. Sark  
Cassaundra L. Sark (0087766)  
P.O. Box 725  
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(740) 532-4333  
(740) 532-7341 – Fax  
*Counsel for Defendants*

**MEMORANDUM IN SUPPORT**

On November 22, 2024, this Court's Notice provided that counsel shall confer and notify the Court within ten (10) days if this case should not proceed with mediation in January 2025. (Doc. #: 36). The deadline for notifying the Court was 4:00 p.m. on December 2, 2024. (Doc. #: 36). The undersigned counsel had various hearings the week of Thanksgiving and was out of office from November 28 through December 4. The undersigned counsel emailed the Court on December 2, 2024, and provided that the parties did not wish to proceed with mediation in January 2025. However, the email was sent at 4:09 p.m., which was after the deadline. As a result, this Court assigned a mediator on December 3, 2024.

At this time, the undersigned counsel respectfully requests this Court vacate mediation. Plaintiff filed a partial motion for summary judgment (Doc. #: 33), and Defendants filed a motion for summary judgment regarding all causes of action set forth in the Complaint (Doc. #: 32). The parties have not yet filed their responses to the respective motions. Additionally, Plaintiff filed a motion for relief from judgment, or in the alternative, a motion to file an amended complaint. (Doc. #: 34). Defendants have responded to this motion (Doc. #: 35); however, Plaintiff's reply in support will not be filed until December 16, 2024 (Doc. #: 40). As a result of the pending motions, the undersigned counsel believes it is in the best interest of the parties to vacate mediation until decisions are rendered on the abovementioned motions. Waiting until the decisions are rendered will provide clarity regarding the parties involved and the remaining claims. At this point, it is unclear whether Plaintiff will be permitted to amend the Complaint and what claims will remain after the pending motions are determined, and as a result, there are too many unknown variables to have a fruitful mediation. Accordingly, Defendants respectfully request this Court vacate the mediation scheduled for January 2025 until decisions are rendered on the pending motions.

Counsel for Defendants complied with S.D. Ohio Civ. R. 7.3(a) by consulting with Plaintiff's counsel regarding this motion. Counsel for Plaintiff does not oppose the motion to vacate mediation.

Respectfully Submitted,

/s/ Cassaundra L. Sark  
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(740) 532-4333  
(740) 532-7341 – Fax  
*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the Defendants' Motion to Vacate Mediation was provided via the Court's electronic filing system (CM/ECF) on the 7<sup>th</sup> day of December 2024.

/s/ Cassaundra L. Sark  
Cassaundra L. Sark (0087766)  
*Counsel for Defendants*